

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FISH AND GAME**

**Call to Order:** By **CHAIRMAN KEN MESAROS**, on March 29, 1999 at 5:10 P.M., in Room 402 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Ken Mesaros, Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Al Bishop (R)  
Sen. William Crismore (R)  
Sen. Steve Doherty (D)  
Sen. Pete Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Eve Franklin (D)  
Sen. Bea McCarthy (D)  
Sen. Chuck Swysgood (R)  
Sen. Jack Wells (R)

**Members Excused:** Sen. Mike Taylor, Vice Chairman (R)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Adrienne Pillatzke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None, 3/29/1999  
Executive Action: HB 488; HB 478; HB 315

#### **EXECUTIVE ACTION ON HB 488**

**Motion/Vote:** SEN. BECK moved TO BRING HB 488 OFF THE TABLE.  
**Motion carried unanimously.**

**Motion:** SEN. BISHOP moved that **AMENDMENT BE ADOPTED.**

**Discussion:**

**SENATOR BISHOP** explained his proposed amendment on page 2, line and line 4. He moved to strike "prohibiting the state from".

**Vote:** Motion **carried unanimously.**

**Motion/Vote:** SEN. BECK moved that **HB 488 BE CONCURRED IN AS AMENDED.** Motion **carried unanimously.**

*{Tape : 1; Side : A; Approx. Time Counter : 2.9}*

**EXECUTIVE ACTION ON HB 478**

**Motion:** SEN. BECK moved **TO BRING HB 478 OFF THE TABLE.**

**Vote:** Motion **carried unanimously.**

**Leanne Kurtz** entered amendment HB047803.alk, **EXHIBIT(fis70a01).**

**Motion:** SEN. WELLS moved that **HB047803.ALK BE ADOPTED.**

**Discussion:**

**SENATOR WELLS** explained the amendment.

**SENATOR BECK** stated since Senator Taylor wanted to leave the price as it was, he will eliminate the price change from his amendment.

**SENATOR WELLS** said Senator Taylor suggested one other part to the amendment. He suggested 20% of the money that Fish, Wildlife and Parks acquired from the three-day permit and the nonresident permit will be used for improvements and development of addition upland bird habitats. Other states are able to contend with the number of hunters because they do a lot of development and production of habitat for the birds. **SENATOR MESAROS** said that was not part of the amendment and nor was there language on it. **SENATOR WELLS** said conceptionally speaking he was wondering if they could try to work it into the amendment.

**SENATOR CRISMORE** believed there already was some of that in statute about where the money from the licenses go. He asked Bob Lane if he could answer his question. **Bob Lane, Fish, Wildlife and Park,** could not answer the question. **SENATOR CRISMORE** asked if a percentage of the \$55 out-of-state bird license goes to

upland bird management enhancement program. **Leanne Kurtz** said there is a percentage allocated from nonresident licenses.

**SENATOR WELLS** asked what is the percentage. **Leanne Kurtz** said \$23 of the class B nonresident big game combination license is allocated for the program. The class B-1 license nonresident upland game bird allocated \$23 to the game bird enhancement program.

**SENATOR SWYSGOOD** asked what was the length of time a nonresident can get a bird license. **SENATOR DOHERTY** replied the whole season. **SENATOR SWYSGOOD** asked if this was limiting everybody to three days. **SENATOR WELLS** replied this will be established like the three-day fishing license.

**Vote:** Motion carried 8-4 with Crismore, Doherty, McCarthy Swysgood voting no.

**Leanne Kurtz** entered amendment HB047802.alk, **EXHIBIT(fis70a02)**.

**Motion:** SEN. BECK moved that HB047802.ALK BE ADOPTED.

**Discussion:**

**SENATOR BECK** said he is going to strike amendments #3 and #4 which deals with the price change. He wanted to strike that there is any cap. He believed a \$110 license fee would decline the out-of-state license permits.

**SENATOR DOHERTY** said they could increase the price to \$500 and they will still pay it. The amount of money they spend to get to Montana does not affect them. The whole purpose of the bill is to put a cap or to set a limit.

**SENATOR ELLINGSON** asked what were the committee's actions before they tabled the bill last meeting. **SENATOR DOHERTY** replied the amendment did not pass.

**SENATOR ELLINGSON** asked if Senator Beck would feel comfortable with a cap of 10,000. **SENATOR BECK** replied he does not feel comfortable with any cap. The people he talked to said they do not want a cap for the bill. He said if the number of nonresident licenses reached 12,000, he would like a cap. He said maybe with the extra revenue they can enhance the upland bird population.

**SENATOR MCCARTHY** said without a cap on the bill, she cannot support the bill.

**SENATOR WELLS** discussed a talk with a member from his district who had guided for a bird outfitter. He said there needed to be a cap for HB 478. He explained what the man had told him.

**SENATOR CRISMORE** said they miss the point of who is leasing all of the land. He said there are a lot of resident people in Montana that are leasing land. There are probably as much leased by residents as there are nonresidents. He leased land.

**Vote:** Motion failed 6-6 with Beck, Crismore, Ekegren, Mesaros, Swysgood, and Taylor voting aye.

**Leanne Kurtz** entered amendment HB047801.alk, **EXHIBIT(fis70a03)**.

**Motion:** SEN. DOHERTY moved that HB047801.ALK BE ADOPTED.

**Discussion:**

**SENATOR DOHERTY** explained the intent of the amendment.

**SENATOR BECK** asked if the committee passed an amendment for the bill at the last committee meeting. **SENATOR MESAROS** replied no. **SENATOR BECK** asked if the bill stands at 7,500. **SENATOR MESAROS** replied yes.

**SENATOR EKEGREN** asked if the bill states there is a drawing if there are limits. **SENATOR DOHERTY** replied yes. **SENATOR EKEGREN** asked how does an out-of-state resident bring friends in if they do not know if they will get a license.

**SENATOR DOHERTY** withdrew his motion. He wanted to add an amendment to the current amendment proposed. He said the amendment would say, "the commission shall develop party licenses for use in the drawing system".

**SENATOR EKEGREN** asked if it would be a group license. **SENATOR DOHERTY** replied yes.

**SENATOR MCCARTHY** asked if the amendment would specify the number that would be in the group. He asked if it would be one license for the group and only one ticket in the drawing. **SENATOR DOHERTY** said one party application and anybody who was in the application would have to get a separate license. **SENATOR MCCARTHY** said there could be 200, or 50, or 2 people in the party. **SENATOR DOHERTY** said the idea is the commission would develop rules to deal with applications for upland birds.

**SENATOR WELLS** was thinking of an idea where the department established an opening date for the application for the following year license. People would have to send in their application and the first ones to get in will get their licenses. That way they could play for their hunt. He said it would not require a drawing.

**SENATOR SWYSGOOD** assumed if a cap was placed on the number of licenses, the department would adopt rules similar to the big game licenses.

**SENATOR BISHOP** said the commission ought to be the ones to put a cap on the licenses. He asked how the committee could knowledgeably place a cap on the licenses.

**SENATOR BECK** said he would turn it over to the Department of Fish, Wildlife and Parks. If there was serious trouble and they identify with it, then they do have the permission to go to this legislation. He would like to have #3 struck out of the amendment.

**SENATOR EKEGREN** said there might be times when the population could take more than 7,500. There might be times when it could take less. They might have to regulate the length of a season.

**SENATOR BECK** said he was right. They might have to regulate the length of a season to hold it down or see what price they can get for the ticket. The commission would have the discretion to do something to correct the problem. He said to let the experts in bird biology make the determination.

**SENATOR EKEGREN** said Colorado hunting season is 4 days. He believed it is unlimited. **SENATOR MCCARTHY** said the number of birds is unlimited but the season is 4 days. **SENATOR EKEGREN** said it makes it tough for the out-of-state resident. **SENATOR MESAROS** said there is some concern about segregating this.

**SENATOR SWYSGOOD** said he disagreed with Senator Bishop. The legislature set up the number of licenses for big game hunting at 17,500. He said it was not unusual for the legislature to set limits.

**SENATOR MCCARTHY** asked if Senator Doherty's amendment is in conflict with line 19 and 20 the bill. **SENATOR DOHERTY** referred the question to Leanne Kurtz. **Leanne Kurtz** said no.

**SENATOR BECK** said he would like to segregate #3 out of the original motion and vote on it separately.

Vote: Motion SECTION #1, #2 AND #4 OF AMENDMENT HB047801.ALK carried 10-2 with Crismore and Swysgood voting no.

Vote: Motion SECTION #3 OF AMENDMENT HB047801.ALK failed 5-7 with Bishop, Doherty, Ellingson, Franklin and Wells voting aye.

Motion/Vote: SEN. DOHERTY moved that HB 478 BE CONCURRED IN AS AMENDED. Motion carried 10-2 with Crismore and Swysgood voting no.

*{Tape : 1; Side : A; Approx. Time Counter : 31.5}*

EXECUTIVE ACTION ON HB 438

Motion/Vote: SEN. DOHERTY moved TO BRING HB 438 OFF THE TABLE. Motion failed 3-9 with Doherty, Ellingson and Franklin voting aye.

EXECUTIVE ACTION ON HB 533

Motion/Vote: SEN. DOHERTY moved TO BRING HB 533 OFF THE TABLE. Motion failed 6-6 with Beck, Crismore, Doherty, Ekegren, Ellingson, and Franklin voting aye.

EXECUTIVE ACTION ON HB 315

Motion/Vote: SEN. ELLINGSON moved TO BRING HB 315 OFF THE TABLE. Motion carried 9-3 with Bishop, Crismore and Swysgood voting no.

SENATOR BECK entered amendment HB031503.alk, **EXHIBIT**(fis70a04). SENATOR ELLINGSON explained the intent of the amendment.

Motion: SEN. BECK moved that AMENDMENT HB031503.ALK BE ADOPTED.

Discussion:

SENATOR WELLS asked if the committee amended the bill before it was tabled.

SENATOR MCCARTHY thought the committee had adopted an amendment.

*{Tape : 1; Side : B; Approx. Time Counter : 0}*

SENATOR SWYSGOOD said he didn't recall any amendment being adopted to the bill. He thought the bill was tabled before it could be amended.

**SENATOR WELLS** said he did not like the bill as presented by the sponsor. He does not think the amendment helps the bill.

**SENATOR BECK** said since the bill is on the table there is nothing stopping them from instituting other amendments.

**SENATOR BECK** stated the Department said the committee passed an amendment. **SENATOR SWYSGOOD** said the committee could pass the amendment again and if the amendment had already been passed, it would not matter. He noted the amendment Senator Wells was talking about was from the Fish and Game.

**Leanne Kurtz** said the Fish and Game amendments strike sections #2 and #3 in their entirety.

**SENATOR BECK** explained the amendment to Senator Wells.

**Leanne Kurtz** said the Department's amendments say to strike out #2, #3, #4 and #5. She does not know if that was the Department's intent or if it was just to remove sections #2 and #3. She said if #2, #3, #4 and #5 were removed then Senator Beck's amendment is not needed.

**SENATOR MCCARTHY** asked where else in the bill is "camp host" from line 10 referred to. **SENATOR FRANKLIN** showed Senator McCarthy where in the bill it was referred to.

**SENATOR BECK** withdrew his amendment.

**SENATOR WELLS** said by reading the amendment he does not see where sections #4 and #5 are being struck out. **Leanne Kurtz** replied that amendment #4 reads page 2, line 3 through page 5, line 5.

**SENATOR WELLS** said it does not say to strike it out just to strike section #2 and #3 in their entirety. **Leanne Kurtz** replied she was pointing out the disparity there. She was not sure if that was the intent by the Department.

**Bob Lane, Fish, Wildlife and Parks**, said it was the intent by the department to strike out all of the section and give the committee specific rule making authority to do primitive access fishing access sites by rule. It would allow them to chose the sites and put the restrictions on by rule.

**SENATOR SWYSGOOD** said he does not like the bill. He thought last time the sponsor told the commission and Fish, Wildlife and Parks to do rules to implement and they didn't do it. He said if the amendment was placed on the bill they are going right back to where they were before.

**SENATOR MESAROS** asked if any member of the committee would like to support an amendment for HB 315.

**Motion:** **SEN. BECK** moved that **AMENDMENT HB031503.ALK BE ADOPTED.**

**Discussion:**

**SENATOR MCCARTHY** asked if the bill is in front of the committee with no amendments. **Leanne Kurtz** said yes.

**SENATOR CRISMORE** said if the amendments were adopted before then they are still on the bill.

**SENATOR MCCARTHY** said it was her understanding when Representative Raney was presenting the bill he specifically took out some parts of Region 2 or 3. He also put flora and fauna on line 7, page 4. **SENATOR SWYSGOOD** said he can do that in his opening and closing but unless the committee does it, it does not make any difference.

**Leanne Kurtz** said she did not receive any specific requests from Representative Raney.

**Vote:** Motion **carried 10-2 with McCarthy and Swysgood voting no.**

**SENATOR SWYSGOOD** said the Department did adopt the rules but for only 100. But they didn't do the 200 which Representative Raney wanted.

**SENATOR ELLINGSON** asked to check if there were any amendments adopted to the bill before voting on the bill. **SENATOR MESAROS** agreed to check before voting.

***{Tape : 1; Side : B; Approx. Time Counter : 10.5; Comments : Tape stopped for 10 minutes.}***

**SENATOR MESAROS** notified the committee HB 315 was amended before being tabled.

**Motion:** **SEN. ELLINGSON** moved **TO RECONSIDER THE COMMITTEE'S ACTION ON PLACING THE AMENDMENT ON HB 315.**

**Discussion:**

**SENATOR ELLINGSON** wanted to point out that the Fish and Game already has the rule making authority. He said as a result of it, about 100 places were designated as primitive. He said the purpose of the bill is to place these sites in statute so they



can be finally designated as primitive sites and in two years we can look at them again.

**Vote:** Motion failed 5-7 with Beck, Doherty, Ellingson, Franklin, and McCarthy voting aye.

**Motion:** SEN. BECK moved that HB 315 BE CONCURRED IN AS AMENDED.

**Discussion:**

SENATOR WELLS said there is a discrepancy in the way the amendment was passed because it did not read that way in the amendments. The Department told the committee after the fact that was their intention. He wondered what the proper judgement is. SENATOR BECK said his amendment did take out section #4 and replaced it with the fees. His intent was to leave the park fee.

Leanne Kurtz notified Senator Beck his amendment does not take out section 4, it amends section 4.

**Motion/Vote:** SEN. BECK moved that AMENDMENT TO ADD ADDITION SECTION BE ADOPTED. Motion carried 10-2 with Crismore and Swysgood voting no.

**Motion/Vote:** SEN. MCCARTHY moved that HB 315 BE CONCURRED IN AS AMENDED. Motion carried 10-2 with Crismore and Swysgood voting no.

**Motion/Vote:** SEN. MCCARTHY moved TO BRING HB 533 OFF THE TABLE. Motion failed 6-6 with Bishop, Doherty, Ekegren, Ellingson, Franklin, and McCarthy voting aye.

**ADJOURNMENT**

Adjournment: 6:22 P.M.

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SEN. KEN MESAROS, Chairman

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ADRIENNE PILLATZKE, Secretary

KM/AP

**EXHIBIT** (fis70aad)